IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.W.P. Nos: 877, 878, 923 and 953 of 2007

Date of decision: 9.7.2007

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1. **CWP No. 877 of 2007**

   Varun Chaudhary **Petitioner**

   Versus

   State of H.P. and others **Respondents**

   Mr. B.C.Negi, counsel for the petitioner

   Mr. M.S.Chandel, Advocate General, with Mr. R.M.Bisht, DAG for the State.

   Mr. V.D.Khidta, counsel for H.P.University.

2. **CWP No. 878 of 2007**

   Abhinav Verma **Petitioner**

   Versus

   State of H.P. and others **Respondents**

   Mr. Shrawan Dogra, counsel for the petitioner

   Mr. M.S.Chandel, Advocate General, with Mr. R.M.Bisht, DAG for the State.

   Mr. V.D.Khidta, counsel for H.P.University.

3. **CWP No. 923 of 2007**

   Digvijay Singh **Petitioner**

   Versus

   State of H.P. and others **Respondents**

   Mr.Sandeep Kaushik, counsel for the petitioner

Mr. M.S.Chandel, Advocate General, with Mr. R.M.Bisht, DAG for the State.

Mr. V.D.Khidta, counsel for H.P.University.

4. **CWP No. 953 of 2007**

Deepanshu Dhiman **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr. Shrawan Dogra, counsel for the petitioner

Mr. M.S.Chandel, Advocate General, with Mr. R.M.Bisht, DAG for the State.

Mr. V.D.Khidta, counsel for H.P.University.

Coram

The Hon'ble Mr. Justice Deepak Gupta, ACJ.

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

Per Deepak Gupta, ACJ (Oral)

The petitioners in these writ petitions were candidates in the H.P.C.M.T. examination conducted for admission to Medical & Dental Colleges. The examination was held on 30.5.2007. The petitioners submit that either the key answers are incorrect or more than one answers are correct or all the answers are incorrect. This

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

according to them has resulted in the declaration of incorrect merit list.

According to the procedure followed by the University even before declaration of the first result, the matters were referred to two pre-result Moderation Committees, one consisting of three University Teachers and the other committee consisting of two Lecturers. After the result was declared and the representation received from the students, the matters were again placed before the same committees.

We had passed detailed orders on 28th June, 2007 and 3rd July, 2007. On 3rd July, 2007 we had directed the Vice Chancellor of the respondent-University to get 5 questions, i.e. questions No. 72, 78, 97, 155 and 156 re-evaluated. Relevant portion of our directions reads as follows:-

1. **The Vice Chancellor of the H.P. University shall personally ensure that the aforesaid 5 questions i.e. questions No. 72, 78, 97, 155 and 156 are referred to a team of three new experts for obtaining their views about the correct answer. While sending the aforesaid five questions, the Vice Chancellor shall ensure that the answers as appearing in the key published by the University as well as the observations and proceedings of all the Moderation Committees are sent to the team of the experts. The Vice Chancellor shall also send the material relied upon by the petitioners to the team of experts so that this team of**

experts can grasp the entire thrust of controversy and give its report about the correct answer in light of the divergence of views.

2. **We intend to treat the report of this team of experts as conclusive and binding in all respects. The Vice Chancellor is, therefore, directed to ensure that the experts are renowned in their fields and the reference is made to Institution(s)/Universities of National Repute only.**
3. **The experts shall not only report which is the correct answer, but in case they find that the questions were not properly framed and could not have been answered, they shall clearly state so in their report. They should also give their opinion as to whether any such question(s) should be totally excluded from consideration while evaluating the answer sheets. The team of experts may give short reasons in support of their views.**

The entire exercise shall be completed by 8th July, 2007."

Pursuant to the directions issued by us the Vice Chancellor of the University has got the questions as well as key-answers re-assessed from a team of experts of the Punjab University. With respect to questions No. 72, 78 and 97, these questions have been referred to the department of Botany since they relate to this department. Questions No. 155 and 156 have been referred to the department of Physics of the same University. The opinion of the two committees with regard to questions No. 72, 78, 97, 155 and 156 are as follows:-

"**Q. Nos. 72, 78 & 97**

i) **With regard to question No. 72, the committee unanimously, is of the opinion that the right choice is (a) i.e. Photosystem I. There is no ambiguity with regard to the correctness of answer which is (a).**

ii) **Regarding question No. 78, the right choice is (C) i.e. Plasmodesmata, the answer has been scanned from different books also. There is no second opinion with regard to the correctness of answer which is (C).**

and

iii) **Question No. 97, (C) i.e. Density gradient centrifugation is undoubtedly the right choice and in uncertain terms, there is no ambiguity with the correctness of answer which is (C).**

Q. No. 155.

After careful scrutiny of the language of the question, we have arrived at the following conclusions :

As far as the magnitude is concerned, there is no ambiguity. Both the choices (A) and (B) are correct. However, the question does not specify the reference direction with respect to which the angle Φ has to be calculated. Therefore, both the choices (A) and (B) can be correct. Hence, the question 155 becomes ambiguous as there is no single correct choice. Hence this question be dropped from evaluation.

Q. No. 156

After carefully going through the questions, we find that the question is ambiguous. The answers given pertain to centrepital acceleration (linear acceleration).

That is why the examiner choose option `B' as correct. The unit mentioned in the answer also pertain to linear acceleration. However, the student has to find the magnitude of angular acceleration. Hence the question

is ambiguous. None of the choices pertain to the question asked. Hence this question be dropped from evaluation."

In view of the clear cut and unambiguous findings of these committees, we have no option, but to hold that the key answers in respect of questions No. 72, 78 and 97 are incorrect and the correct answers in respect of these three questions are choices (A), (C) and (C) respectively.

As far as questions No. 155 and 156 are concerned, the committee has clearly stated that the questions are ambiguous and none of the choices given pertain to the questions and hence questions be dropped from evaluation. We accept this report and these two questions be not taken into consideration while evaluating and answers.

The respondent-University is directed to re-evaluate answer sheets on the basis of fresh re-evaluation to be done in accordance with the report of the two committees which we have accepted. The fresh result shall be declared positively on or before 12th July, 2007. The resultant category-wise merit list be also declared before the said date. The result and category-wise merit list be published in the newspapers on or before 13th

July, 2007. The counseling shall commence from 16th July, 2007, as already fixed.

It may not be feasible for the University to send individual intimation of the result to all the candidates within the aforesaid period. We, therefore, direct that intimation of the result be only sent to those candidates who have qualified the test.

The reports of the committees have been returned to the respondent-University. A copy of this judgment, duly authenticated by the Court Secretary, shall be supplied to Mr. Khidta, learned counsel for the respondent-University, latest by 3.00 p.m. today.

All the writ petitions are disposed of in the aforesaid terms.

(Deepak Gupta), ACJ

July 9, 2007(K) (Sanjay Karol), J.